

**INTERNAL REVENUE SERVICE
DISTRICT DIRECTOR**

**DEPARTMENT OF THE TREASURY
NORTHEAST KEY DISTRICT**

Date: **APR 30 1987**

Person to Contact:

Telephone Number:

Refer Reply To:

Employer Identification Number:

CERTIFIED MAIL

Dear Applicant:

We have completed our consideration of your application for recognition of exemption from federal income tax under section 501(c)(13) of the Internal Revenue Code. We have concluded that you do not qualify for recognition of exemption from federal income tax under that section. The reasons for our conclusion are explained below.

This ruling is based on information provided on Form 1024, Application for Recognition of Exemption Under Section 501(a) or for Determination Under Section 120, supplemented by correspondence dated [REDACTED].

The evidence presented disclosed that you were organized as a Domestic (Not-For-Profit) Corporation on [REDACTED].

The purpose for which the Corporation is to be formed is to establish, maintain and operate a [REDACTED] for the [REDACTED] of human remains and to acquire by lease, purchase or otherwise the facilities, including land and buildings, and the equipment required for its operation.

Your organization is not a membership organization.

The information submitted with your Application Form 1024 indicates that your primary activity is to operate a [REDACTED] for the [REDACTED] of human remains. Created remains will be turned over to the decedent's next of kin.

The organization's sources of income will be fees paid to it for [REDACTED] of human remains. Your organization will also receive income from sales of urns, [REDACTED] containers and income from transportation fees.

Disbursements are made for renting office space, loan payments for equipment and various expenses related to the [REDACTED] of human remains.

Your board of directors consist of [REDACTED], President and Treasurer, [REDACTED], Vice-President, and [REDACTED], Secretary.

[redacted] and [redacted] are also employees of the [redacted] Funeral Home.

[redacted] is a directory and officer of [redacted] Funeral Home.

[redacted] is the sole shareholder and President of the [redacted] Funeral Home.

[redacted] President of [redacted], Inc. loaned the organization [redacted] to be paid in monthly installments for a period of five years at an interest rate of [redacted] per year.

The equipment used by [redacted], Inc. are leased from [redacted] at a cost of [redacted] payable in monthly installments of [redacted].

The building is also leased from [redacted] at a cost of [redacted] payable in monthly installments of [redacted].

Employees from the [redacted] Funeral Home will be contracted to provide personnel for conducting cremations.

Section 501(c)(13) of the Code provides an exemption from federal income tax for cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit; and any corporation chartered solely for the purpose of the disposal of bodies by burial or cremation which is not permitted by its charter to engage in any business not necessarily incidental to that purpose, provided no part of the organization's net earnings inures to the benefit of any private shareholder, or individual.

Income Tax Regulation 1.501(c)(13)-1 state that any nonprofit corporation chartered solely for the purpose of the cremation of bodies is exempt from tax provided no part of its net earnings inures to the benefit of any private shareholder or individual.

Revenue Ruling 76-91, 1976 C.B. 150, held that an organization will not jeopardize its exemption under section 501(c)(3) of the Code, even though it deals with related parties in a commercial context, as long as the dealings are at arm's length and prices are set by qualified and independent appraisers.

Your organization can be distinguished from the above Revenue Ruling based on the fact that the dealings in this matter are not at arm's-length. [redacted] President and Treasurer of [redacted], Inc. also owns, controls and is the sole shareholder and President of the [redacted] Funeral Home.

In *Restland Memorial Park v. United States*, 371 F.Supp.164 (N.D.Tex. 1974) a cemetery's net earnings were found to inure to private individuals, precluding exemption under section 501(c)(13) of the Code, where it allowed a related for-profit mortuary to benefit from its efforts without compensation. There, an individual who controlled the cemetery also owned a for-profit funeral home. [redacted] President and Treasurer of [redacted]

[REDACTED], Inc. also owns, controls and is the sole shareholder and President of the [REDACTED] Funeral Home.

[REDACTED], President of [REDACTED], Inc. loaned the organization [REDACTED] to be paid in monthly installments for a period of five years at an interest rate of [REDACTED] per year.

The equipment used by [REDACTED], Inc. are leased from [REDACTED] at a cost of [REDACTED] payable in monthly installments of [REDACTED]

The building is also leased from [REDACTED] at a cost of [REDACTED] payable in monthly installments of [REDACTED]

Employees from the [REDACTED] Funeral Home will be contracted to provide personnel for conducting cremations.

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(13) of the code and propose to deny your request for exemption under that section.

We have also determined that you fail to qualify for exempt status under any other subsection of IRC 501(c).

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service. Please send the return to the Internal Revenue Service, [REDACTED], General Post Office, [REDACTED]

If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which not contain all the documentation stated in the instructions will be returned for completion.

If we do not hear from you within that time, this determination will become final.

Sincerely yours,

[Handwritten Signature]
District Director

Enclosure: Publication 892